

BOARD OF APPEALS CASE NO. 4928

BEFORE THE

APPLICANT: David Lauer

ZONING HEARING EXAMINER

REQUEST: Variance to permit a pool,
shed, deck & brick pillar within a recorded
easement; 405 Blueberry Court,
Edgewood

OF HARFORD COUNTY

Hearing Advertised

Aegis: 5/26/99 & 6/2/99

Record: 5/28/99 & 6/4/99

HEARING DATE: July 7, 1999

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ZONING HEARING EXAMINER'S DECISION

The Applicant, David Lauer, appeared before the Hearing Examiner requesting a variance to construct a swimming pool and deck which encroach into a drainage and utility easement, to the construct a shed which will be entirely within the drainage and utility easement, and a brick pillar also in the drainage and utility easement.

The subject parcel is located 405 Blueberry Court in the Second Election District. The parcel is identified as Parcel No. 307, in Grid 2-D, on Tax Map 65. The parcel contains .15 acres, m/l and is zoned R3.

Mr. David Lauer appeared and testified that he is requesting variances to construct a swimming pool which will encroach 5 feet into the drainage and utility easement, an 8 foot by 10 foot shed, which will be located entirely within the drainage and utility easement, and a brick pillar on the right side of the existing driveway. The witness said the subject parcel is unique because it is encumbered by a 15 foot drainage and utility easement across the rear of the property and a 10 foot drainage and utility easement along each side property line. The Applicant said he did not feel the variances would be substantially detrimental to adjacent properties or materially impair the purpose of the Code because there are no neighbors to the rear of the property and he introduced letters from several neighbors who indicated they were not opposed. Two neighbors appeared and testified that they were not opposed to the Applicant's request.

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The Staff Report of the Department of Planning and Zoning recommends conditional approval and provides:

"The configuration of the subject property is not unusual. The unusual circumstances on this property are the size of the lot and the recorded easement area."

CONCLUSION:

The Applicant is requesting a variance to Section 267-26(C)(6) of the Harford County Code, to permit a swimming pool, deck, shed and brick pillar in a recorded easement area. Section 267-26(C)(6) provides:

"No accessory use or structure, except fences, shall be located within any recorded easement area."

The Applicant testified that the subject property is unique because it has a 15 foot drainage and utility easement across the rear of the property and a 10 foot drainage and utility easement along each side property line, which reduces the usable area of the parcel. The file indicates that the Department of Public Works visited the property and reviewed the request for the pool and the shed. The Department of Public Works determined that the pool and shed should not adversely impact the existing drainage patterns in the area. The Department of Public Works did not address the brick pillar at the end of the driveway, but there is no reason to believe that a pillar located at the end of the driveway will adversely impact the drainage patterns in the area.

No evidence was introduced that approval of the variance would be substantially detrimental to adjacent properties or materially impair the purpose of the Code. Two of the Applicant's neighbors appeared and testified that they did not feel approval of the variance would adversely impact their property, and the Applicant introduced a number of letters from area residents indicating they were not opposed to the request.


It is the finding of the Hearing Examiner that the subject property is unique for the reasons stated by the Applicant in his testimony and, further, that approval of the variance will not be substantially detrimental to adjacent properties or materially impair the purpose of the Code.

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Therefore, the requested variances to locate a swimming pool, deck, shed, and brick pillar with the easement area is hereby recommended, subject to the following conditions:

1. The Applicant obtain all necessary permits and inspections for the pool, deck, shed and brick pillar.
2. The Applicant meet the minimum setback required by the Code for each of the accessory uses.
3. The shed shall not be placed on a permanent foundation.
4. Should any of the structures contribute to a drainage problem in the future, they shall be moved at the Applicant's expense.

Date AUGUST 5, 1999



L. A. Hinderhofer
Zoning Hearing Examiner